

## Article - Criminal Procedure

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§11–110.1.

(a) In this section, “health care provider” has the meaning stated in § 18–336 of the Health – General Article.

(b) (1) A circuit court judge or a District Court judge may issue an emergency order to obtain an oral swab from a person to be tested for the presence of HIV whenever it is made to appear to a judge, by application as described in paragraph (2) of this subsection, that there is probable cause to believe that the person has caused prohibited exposure to a victim.

(2) An application for an emergency order shall be:

(i) made as soon as possible after the alleged prohibited exposure, and in no event later than 72 hours after the alleged prohibited exposure;

(ii) in writing, signed and sworn to by the applicant, and accompanied by an affidavit that sets forth the basis to believe that the person from whom an oral swab is requested has caused a prohibited exposure to a victim;

(iii) sealed; and

(iv) subject to rules developed by the Court of Appeals.

(3) An emergency order issued under this subsection shall meet the requirements under § 1–203 of this article.

(4) The Court of Appeals may adopt rules to carry out the requirements of this subsection.

(c) (1) A law enforcement officer who has obtained an oral swab from a person pursuant to an emergency order issued in accordance with this section shall deliver the oral swab to a local health official or health care provider to be tested for the presence of HIV.

(2) A test for the presence of HIV shall be immediately performed on the sample.

(d) After receiving the results of a test conducted under subsection (c) of this section, the local health officer or health care provider immediately shall provide the results to:

- (1) the victim or victim's representative; and
- (2) the person from whom the oral swab was taken.

(e) The results of a test conducted under subsection (c) of this section are:

(1) subject to the disclosure restriction in § 11–114 of this subtitle;  
and

(2) not admissible as evidence of guilt or innocence in a criminal proceeding arising out of the alleged prohibited exposure.

(f) The Maryland Department of Health shall adopt regulations to carry out the requirements of subsections (c) through (g) of this section.

(g) A health care provider that offers the immediate testing of a sample under subsection (c) of this section shall adopt procedures to meet the requirements under this section.

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